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March 21, 2023

Honorable Kiyo A. Matsumoto
United States District Court,
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11202

Re: **1567 56th Street, LLC et al v. Spitzer et al, 1:22-cv-04873-KAM-RML**

Honorable Judge Matsumoto:

We represent Plaintiffs, 1567 56TH Street, LLC, 1569 56TH Street, LLC and Shlomo Braun and respond to the pre-motion conference letter of defendants dated March 16, 2023 [ECF 34].

Under FRCP 12(b) a defendant is entitled to file a pre-answer motion, even a futile one. In this case, it is impossible to distill all the factual allegations of a 70-page complaint into a three (3) page letter. The standard of review mandates accepting “as true all of the allegations contained in a complaint.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). This means that a court should not omit considering vital facts essential to a party’s claim. Otherwise, the record is not taken as a whole. Moreover, defendants letter raises a red herring alleging a mere “forgery” and other innocuous jurisdictional arguments which Plaintiffs will refute in the opposition to defendants pre-answer motion.

Given that the first amended complaint is fact intensive, and the Plaintiffs expect having to answer at least three different motions simultaneously, Plaintiffs respectfully request 60-days to oppose each of the multiple motions of defendants.

The defendants Weinfeld, Bleier, and Rosa Funding LLC have unilaterally proposed a schedule with their “motion be due April 7, 2023; Plaintiffs’ brief in opposition be due April 21, 2023.” [ECF 34]. The Plaintiffs object to a schedule that inconsiderably ignores Braun and his counsel’s observance of the Passover holiday, which starts April 5, 2023 (with the commencement of obligatory preparations and rituals) and ends April 15, 2023 (with the conclusion of the holiday and sabbath weekend), leaving less than six (6) days to prepare a fact intensive opposition. As such, Plaintiffs request that the Court set the calendar for Plaintiffs to file its opposition 60-days from the date of the filing of the respective pre-answer motions. Notably, co-defendants in their letter dated March 17, 2023 [ECF 35] consented to the same 60-day timeline. Moreover, in a March 17, 2023, conference with Kaitlyn Long, of Marks, O’Neill, counsel for other co-defendants also consented to the same 60-day timeline.

Respectfully submitted,

/ s / Levi Huebner
